

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

STEVEN GILLMAN, as Personal
Representative for the ESTATE OF
MEGAN ANN MILLER, Deceased,

Plaintiff,

Case No. 21-12762

-vs-

HON. MARK A. GOLDSMITH

CITY OF TROY and
JULIE GREEN-HERNANDEZ,

Defendants.

AYANNA D. HATCHETT (70055)	LORI GRIGG BLUHM (P46908)
MADLINE SINKOVICH (P82846)	City Attorney
VEN R. JOHNSON (P39219)	JULIE QUINLAN DUFRAINE (P59000)
JOHNSON LAW, PLC	Asst. City of Attorney
535 Griswold Street, Suite 2600	Attorneys for City of Troy
Detroit, MI 48226	500 W. Big Beaver Road
(313) 324-8300	Troy, MI 48083
ahatchett@venjohnsonlaw.com	248-524-3320
msinkovich@venjohnsonlaw.com	
	MARGARET T. DEBLER (P43905)
	HOLLY S. BATTERSBY (P72023)
	MICHAEL T. BERGER (P77143)
	Attorneys for Defendant Hernandez
	27555 Executive Drive, #250
	Farmington Hills, MI 48331
	(313) 489-4100
	mdebler@rsjalaw.com
	hbattersby@rsjalaw.com
	mberger@rsjalaw.com

**DEFENDANT GREEN-HERNANDEZ'S MOTION TO COMPEL
PLAINTIFF TO RESPOND TO HER DISCOVERY REQUESTS**

NOW COMES Defendant, Julie Green-Hernandez, by and through her attorneys, ROSATI SCHULTZ JOPPICH & AMTSBUECHLER PC and for her motion to compel Plaintiff to respond to her discovery requests relies on the attached brief. The undersigned certifies that he made reasonable efforts to seek concurrence with Plaintiff's counsel by sending Plaintiff's counsel emails on June 13, 2022 and June 15, 2022 regarding the outstanding discovery requests. When that did not work, Green-Hernandez's counsel called Plaintiff's counsel and left a message regarding the outstanding discovery responses but received no response. More than three business days have lapsed without opposing counsel expressly agreeing to the relief sought, whether orally or in writing. See Concurrence requirements ECF 4, PageID.24.

Respectfully submitted,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

s/ Michael T. Berger
Attorney for Defendant Hernandez
27555 Executive Drive, Ste. 250
Farmington Hills, MI 48331
(248) 489-4100
mberger@rsjalaw.com
(P77143)

DATED: June 27, 2022

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

STEVEN GILLMAN, as Personal
Representative for the ESTATE OF
MEGAN ANN MILLER, Deceased,

Plaintiff,

-vs-

Case No. 21-12762

HON. MARK A. GOLDSMITH

CITY OF TROY and
JULIE GREEN-HERNANDEZ,

Defendants.

AYANNA D. HATCHETT (70055)	LORI GRIGG BLUHM (P46908)
MADELINE SINKOVICH (P82846)	City Attorney
VEN R. JOHNSON (P39219)	JULIE QUINLAN DUFRAINE (P59000)
JOHNSON LAW, PLC	Asst. City of Attorney
535 Griswold Street, Suite 2600	Attorneys for City of Troy
Detroit, MI 48226	500 W. Big Beaver Road
(313) 324-8300	Troy, MI 48083
ahatchett@venjohnsonlaw.com	248-524-3320
msinkovich@venjohnsonlaw.com	

MARGARET T. DEBLER (P43905)
HOLLY S. BATTERSBY (P72023)
MICHAEL T. BERGER (P77143)
Attorneys for Defendant Hernandez
27555 Executive Drive, #250
Farmington Hills, MI 48331
(313) 489-4100
mdebler@rsjalaw.com
hbattersby@rsjalaw.com
mberger@rsjalaw.com

**DEFENDANT GREEN-HERNANDEZ'S MOTION TO COMPEL
PLAINTIFF TO RESPOND TO HER DISCOVERY REQUESTS**

TABLE OF CONTENTS

Index of Authorities ii

Most Controlling Authority iii

Issue Presented..... iv

Introduction..... 1

Statement of Facts..... 1

Law and Argument 2

Conclusion 3

INDEX OF AUTHORITIES

Case

Mayes v. City of Oak Park,
No. CIVA 05-CV-74386-DT, 2007 WL 328929, at *2
(E.D. Mich. Jan. 30, 2007) 2

Court Rules

Fed. R. Civ. P. 33(a)(1)..... 2
Fed. R. Civ. P. 33(b)(2) 1,2
Fed. R. Civ. P. 34(a)(1)..... 2
Fed. R. Civ. P. 34(b)(2)(A)..... 1,2
Fed. R. Civ. P. 34(b)(4) 2
Fed. R. Civ. P. 37(a)(1)..... 2
Fed. R. Civ. P. 37(a)(3)(iii)-(iv) 2

Statutes

42 USC § 1983..... 1

MOST CONTROLLING AUTHORITY

Fed. R. Civ. P. 33

Fed. R. Civ. P. 34

Fed. R. Civ. P. 37

ISSUE PRESENTED

- I. Whether The Estate of Megan Miller should be compelled to respond to Defendant Julie Green-Hernandez's interrogatories and requests to produce within seven (7) days?

Green-Hernandez states "Yes"

The City of Troy presumably states "Yes"

The Estate presumably states "No"

INTRODUCTION

Defendant Julie Green-Hernandez served Plaintiff with interrogatories and requests to produce. To date, Plaintiff has not responded to those. Green-Hernandez requests that this Court compel Plaintiff to respond to those discovery requests within seven days and order that any objection to those requests be deemed waived.

STATEMENT OF FACTS

Plaintiff, the Estate of Megan Miller, died while in custody at the City of Troy after her arrest in relation to her daughter's death. (Complaint, ECF 1, PageID. 2). The Estate brought this action against Green-Hernandez under 42 USC § 1983 action and gross negligence action against Green-Hernandez, as well as a § 1983 claim against City of Troy, following Miller's in-custody death. (Complaint, ECF 1).

Green-Hernandez served The Estate with interrogatories and requests to produce on May 9, 2022. (**Ex 1** – 1st Discovery Requests). Its responses were due on June 8, 2022. Fed. R. Civ. P. 33(b)(2); Fed. R. Civ. P. 34(b)(2)(A). However, it did not serve answers as required by Rules 33(b)(2) and 34(b)(2)(A). Hernandez-Green's counsel followed-up with The Estate's counsel on June 13, 2022, via email, regarding The Estate's failure to answer the discovery requests. (**Ex. 2** – Emails). The Estate's counsel did not respond. Hernandez-Green's counsel followed-up again via email two days later, but again, did not receive any response. (**Ex. 2** - Emails).

Counsel for Green-Hernandez called The Estate's counsel's office on June 16, 2022 to seek concurrence in this motion, but was transferred to voicemail. The Estate's counsel did not respond to the voicemail.

LAW & ARGUMENT

A party may serve on another party interrogatories and requests to produce. Fed. R. Civ. P. 33(a)(1); Fed. R. Civ. P. 34(a)(1). The responding party must answer those discovery requests within 30 days. Fed. R. Civ. P. 33(b)(2); Fed. R. Civ. P. 34(b)(2)(A). A party waives their objections to interrogatories or requests to produce if they are not timely made. Fed. R. Civ. P. 34(b)(4); *Mayes v. City of Oak Park*, No. CIV 05-CV-74386-DT, 2007 WL 328929, at *2 (E.D. Mich. Jan. 30, 2007). "On notice to other parties and all affected persons, a party may move for an order compelling... discovery." Fed. R. Civ. P. 37(a)(1). On such a motion, the Court may enter an order compelling responses to interrogatories and/or requests to produce. Fed. R. Civ. P. 37(a)(3)(iii)-(iv).

Here, The Estate has not timely responded to Green-Hernandez's interrogatories and requests to produce. Thus, it should be compelled to do so and any objections it may have should be deemed waived.

CONCLUSION

For the foregoing reasons, Green-Hernandez asks that this Court enter an order compelling the Estate to answer her discovery requests within seven (7) days, and that this Court deem any objection The Estate may have had be waived.

Respectfully submitted,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

s/ Michael T. Berger
Attorney for Defendant Hernandez
27555 Executive Drive, Ste. 250
Farmington Hills, MI 48331
(248) 489-4100
mberger@rsjalaw.com
(P77143)

DATED: June 27, 2022

LOCAL RULE CERTIFICATION: I, Michael T. Berger, certify that this document complies with Local Rule 5.1(a), including: double-spaced (except for quoted materials and footnotes); at least one-inch margins on the top, sides, and bottom; consecutive page numbering; and type size of all text and footnotes that is no smaller than 10-1/2 characters per inch (for non-proportional fonts) or 14 point (for proportional fonts). I also certify that it is the appropriate length. Local Rule 7.1(d)(3)

CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2022, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to the following: All counsel of record.

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

s/ Michael T. Berger
Attorney for Defendant Hernandez